IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1451 OF 2005

Maimuddin Gulam Hussein Tungekar
deceased through the heirs .. Appellants

Verus

Smt.Shafabibi Javaje Abdul Rajak
Gulam Hussein Khansode deceased
through her legal heirs. .. Respondents

Mr.Purekar for appellants

CORAM : S.C.DHARMADHIKARI, J.
DATE : 18th July 2007.

P.C.

. Heard Mr.Purekar for appellants. Admit.

2. Substantial question of law that is raised in this second appeal is:-

(a) whether the will deed dated 27th December 1991 based upon which the

original plaintiff is asserting his right, title and interest in the suit property is inadmissible in evidence and has to be excluded from consideration or the same can be read in evidence as certified true copy thereof has been placed on record and the contents thereof were put to one of the witnesses during the course of trial?

(b). Whether the Supreme Court decision reported in (2004) 7 S.C.C. 107 (Dayamathibai Vs. K.M.Shaffi) and the principle laid down therein with regard to mode of proof is applicable to the subject certified copy or not?

2. Hearing expedited.

(S.C.DHARMADHIKARI, J)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPLICATION NO.2059 OF 2005
IN
SECOND APPEAL NO.1451 OF 2005

Maimuddin Gulam Hussein Tungekar
deceased through the heirs .. Appellants
Verus
Smt.Shafabibi Javaje Abdul Rajak
Gulam Hussein Khansode deceased
through her legal heirs. .. Respondents

Mr.Purekar for appellants

CORAM : S.C.DHARMADHIKARI, J.
DATE : 18th July 2007.

P.C.

. Heard Mr.Purekar for applicants. Perused

the application. In the peculiar facts of this case and when the trial court has dismissed appellant's suit in the year 1982, which decree was confirmed in the year 2005 by the lower appellate court, so also there being nothing on record to show that any interim order is running through out the proceedinrgs, this is not a fit case for interim relief, pending hearing and final disposal of the second appeal. C.A. dismissed.

(S.C.Dharmadhikari, J)